Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
To: Joint Board	)	

COMMENTS OF TDS TELECOMMUNICATIONS CORP. ON PROPOSALS
TO MODIFY RULES RELATING TO HIGH-COST UNIVERSAL SERVICE SUPPORT

Gerard J. Waldron
Mary Newcomer Williams
John Blevins
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Tel.: 202-662-6000
Fax: 202-662-6291

Counsel to TDS Telecom

September 30, 2005

SUMMARY

TDS Telecommunications Corp. (TDS) commends the Joint Board members and staff for developing creative proposals to address perceived problems with the current administration and distribution of the Universal Service Fund. However, TDS is concerned that the proposals focus with such singular purpose on constraining the growth of the Fund that they ultimately lose sight of the fundamental purpose that justifies the Fund's very existence. Specifically, proposals to allocate Funds to carriers serving rural areas through state block grants, to freeze per-line support on competitive entry, and to combine rural study areas operated by subsidiaries of a holding company at the state level all threaten to reduce universal service support to rural telephone companies below levels that are sufficient to advance the goals of the underlying statute. The effect of these proposals would be to significantly undermine federal policy goals that Chairman Martin has declared to be the Commission's "No. 1 priority" – the deployment and adoption of advanced telecommunications services, including broadband Internet access, throughout the nation. In lieu of proposals that would dismantle a program that has worked effectively and efficiently to accomplish the statutory goals, TDS urges the Joint Board and Commission to pursue more targeted, cost-efficient reforms that will promote the prudent use of the Fund's resources while ensuring that all those who benefit from the availability of a ubiquitous and reliable nationwide telecommunications network contribute to its support. These reforms include (1) basing USF support for all eligible telecommunications carriers (ETCs), including competitive ETCs (CETCs), on each ETC's embedded costs; (2) establishing additional criteria, mandatory for state and federal regulators alike, for the designation of CETCs to ensure that USF support is paid only to carriers that deliver on the goals of universal service; and (3) modifying the USF contribution methodology to ensure that all

consumers who benefit from and take advantage of a ubiquitous and reliable national telecommunications contribute to the provision and maintenance of that network in high-cost areas. TDS also believes the Joint Board and Commission should consider the possibility of establishing a new program within the USF for the specific support of wireless CETCs in unserved areas.

TABLE OF CONTENTS

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
To: Joint Board	)	

COMMENTS OF TDS TELECOMMUNICATIONS CORP. ON PROPOSALS TO MODIFY RULES RELATING TO HIGH-COST UNIVERSAL SERVICE SUPPORT

The Federal-State Joint Board seeks comment on various proposals by Joint Board members and staff to modify the high-cost universal service support mechanism for rural telephone companies. Specifically, the Joint Board seeks comments regarding "how each proposal addresses the goals of the Act [and] the Commission's universal service goals."[1] TDS Telecommunications Corp. (TDS), which provides a full range of telecommunications services in primarily rural areas through its 112 local exchange carrier subsidiaries, submits these comments to address the fundamental question of whether the various proposals are consistent with the goals and priorities of the federal universal service program.

The universal service program is an essential component of efforts to make advanced telecommunications services, particularly broadband Internet connectivity, available to residents of rural communities at reasonable prices. Although the current high-cost mechanism for rural telephone companies has been and continues to be successful in enabling the provision

---

[1] Public Notice, *Federal-State Joint Board Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, FCC 05J-1 (rel. Aug. 17, 2005) (*Public Notice*). The four proposals attached to the *Public Notice* include the following: "The State Allocation Mechanism: A Universal Service Reform Package", proposed by Joint Board Member Ray Baum (*Baum Proposal*); "Three Stage Package for Universal Service Reform", proposed by Joint Board Member Billy Jack Gregg (*Gregg Proposal*); "A Holistically Integrated Package", proposed by Commissioner Robert Nelson (*Nelson Proposal*); "Universal Service Endpoint Reform Plan (USERP)", proposed by Joel Shifman, Peter Bluhm and Jeff Pursley (*USERP Proposal*).

of basic and advanced telecommunications services in rural and high-cost areas at rates comparable to those in urban areas,[2] TDS recognizes that specific problems with the current programs should be addressed. We therefore commend the Joint Board for its efforts to promote the long-term viability of the Universal Service Fund (USF or Fund) and we welcome the opportunity to provide these comments.

TDS stresses that any evaluation of the pending high-cost proposals must be grounded in the fundamental goals and principles of the universal service program. The full Joint Board, and ultimately the Commission, must determine whether the proposals are consistent with those goals *and* whether the proposals are likely to promote, or on the other hand undermine, important federal priorities for the communities served by rural telephone companies that depend on universal service support.

TDS agrees that certain problems with the universal service program need to be addressed, but we find many of the pending proposals to do both too much and too little to address the most pressing problems. Specifically, we are concerned that these proposals focus with singular purpose on constraining Fund growth and ultimately lose sight of the very goals of the universal service program, particularly the deployment of advanced telecommunications services in rural areas. In addition, TDS notes that the proposals fail to acknowledge both the legal and practical challenges posed by their implementation. In the absence of evidence that the current mechanisms are broken, there is simply no justification for incurring the significant costs and risks that would be associated with constructing and implementing a wholly new regime along the lines suggested in the proposals. As we discuss in Part III below, there are more

---

[2] *See Universal Service Monitoring Report 2004*, CC Docket No. 98-202, CC Docket No. 96-45, at Table 1, 6-10 (Oct. 2004). Over the past five years, subscribership rates at times have been as high as 95.5%. *Id. See also Universal Service Administrative Company 2004 Annual Report*, at 2 (*USAC 2004 Annual Report*).

targeted and cost-effective ways to manage the size and growth of the Fund while simultaneously advancing its fundamental goals.

I. UNIVERSAL SERVICE PROPOSALS MUST BE EVALUATED IN LIGHT OF FEDERAL GOALS AND PRIORITIES FOR RURAL COMMUNITIES

One important and prominent federal policy priority is the continued and expanding deployment of broadband and advanced telecommunications services nationwide. President Bush has set, and Chairman Martin has committed to, a goal of achieving widespread broadband deployment − including in rural areas − by 2007.[3] In fact, Chairman Martin has declared the nationwide deployment of broadband and other advanced telecommunications services in this timeframe as the Commission's "No. 1 priority."[4] As both the President and the Chairman recognize, broadband connectivity to the global telecommunications infrastructure represents the life-blood of the 21st century economy. Broadband deployment in rural communities is essential to ensure both that the opportunities and benefits of the modern economy are available to residents of those areas and that rural customers and businesses are equipped for the demands of the emerging economic reality.

While a variety of broadband technologies are emerging in lower-cost areas, many of these options are not yet available in rural communities, or are not available at affordable prices. For many rural customers, the rural telephone company that currently serves as the primary telecommunications network provider offers the most efficient, and in some cases

[3] Mike Allen, "Bush Sets Internet Access Goal," *Washington Post*, Mar. 27, 2004, at A04.

[4] Kevin J. Martin, "United States of Broadband," *The Wall Street Journal,* Jul. 7, 2005, at A12 ("Creating a policy environment that speeds the deployment of broadband throughout the U.S. is my highest priority as the new chairman of the FCC."); *see also* Drew Clark, "FCC Chief: Broadband is Top Priority," *National Journal's Technology Daily*, May 26, 2005.

the only, option for advanced telecommunications services.[5] The ongoing ability of these companies to upgrade their networks and offer broadband services at reasonable rates represents an essential precondition of widespread consumer adoption of broadband services.

Achieving the goal of expanding rural consumers' access to reasonably priced broadband services – as part of the broader statutory goal of promoting access in rural areas to telecommunications services comparable to those available to urban residents – will only be possible if the appropriate incentives are in place to encourage rural telephone companies to invest in broadband network infrastructure. The universal service program plays a central role in maintaining those incentives. For example, although universal service funding currently does not directly reimburse the costs of providing broadband services, USF funding may be used for general network infrastructure enhancements that often are a necessary precondition to broadband deployment. In addition, predictable universal service support mechanisms based on embedded costs help to provide rural carriers with the assurance that they will recover their costs of providing supported services. This allows rural carriers to invest capital resources in delivering advanced services to rural subscribers.

Any modification of rural high-cost support that prevented rural telephone companies from recovering a sufficient share of the costs of providing high-cost service − or introduced significant risk and uncertainty regarding such cost recovery − would jeopardize the deployment of broadband to rural customers and businesses. According to elementary economic theory, rural carriers would be less likely to make the new investments necessary for broadband

---

[5] *See, e.g.*, "Industry Notes," *Washington Internet Daily*, Sept. 13, 2005 (citing National Telephone Cooperative Association and Foundation for Rural Service rural youth survey showing that, of the 84% of rural youth with Internet access at home, 55% use a dial-up connection, 29% DSL, 5% cable modem, 3% wireless, and 1% satellite). The survey noted that "[t]hese numbers reflect the dominant role DSL plays in rural broadband infrastructure."

deployment if they knew they were facing a substantial disruption in their ability to recover the costs of the services they already provide. The economic reality of the high-cost markets served by rural telephone companies dictates that some meaningful share of the costs of providing telecommunications service must be recovered from universal service support mechanisms if service is to be available to subscribers at reasonable rates. If support levels became uncertain and were materially reduced, rural carriers' financial capital would be depleted just to maintain basic services, and investors likely would not make financing available for new advanced services.[6] At the very least, rural carriers would be forced to charge higher prices for new broadband services, which would discourage many potential customers from purchasing the advanced services.

II. THE JOINT BOARD PROPOSALS ARE INCONSISTENT WITH THE GOALS OF THE UNIVERSAL SERVICE PROGRAM

In evaluating the pending proposals, the Joint Board and the Commission must not lose sight of the fundamental purpose of the Fund − ensuring that all consumers, including those in high-cost areas, have access to evolving and advanced telecommunications services at reasonable rates. Although efforts to manage the size and growth of the Fund are important, they cannot take primacy over the goals that justify the Fund's very existence. Instead, policymakers must strike a careful balance between (1) judiciously and fairly administering the Fund to ensure that it remains viable and is expended only where consistent with the statutory goals; and (2) ensuring that the Fund remains predictable and sufficient to promote the statutory goals and other federal priorities.

---

[6] Rural telephone companies would be particularly harmed by any reduction in high-cost support that affected the recovery of costs that were already incurred (*i.e.*, during the two years prior to the payment of support) with the expectation that a known portion of the costs would be recovered through the existing high-cost support mechanism.

Unfortunately, in many respects the Joint Board proposals are inconsistent with the statutory goals of universal service and Commission policy. The proposals tilt too heavily on constraining Fund growth, without analyzing whether the proposed measures can be implemented in accordance with the goal of encouraging widespread access to evolving, reasonably priced telecommunications services. Specific elements of the proposals would hinder deployment of (and thus access to) quality service, increase administrative costs, and otherwise violate statutory requirements that universal service be sufficient and predictable.

In addition, the proposals — many of which contemplate a radical overhaul of the existing support mechanism — have yet to be fully developed. Adopting any of these proposals without a proper assessment and full understanding of the potential risks and administrative problems would be premature, given the lack of evidence that the existing support mechanism is in need of radical revision. Although discreet problems may exist, the Joint Board should recognize that the goals of both the universal service program and the Commission continue to be advanced under the existing support mechanism.[7]

Below we provide just a few examples of specific features of the Joint Board proposals that would violate statutory requirements, undermine federal policy, or otherwise introduce unjustified risk to the goals of the universal service program.

A. State-Allocated Block Grants

One common feature of the proposals is the recommendation that the Fund be distributed through block grants to the states, with state regulators allocating the available funds among eligible carriers serving rural areas, in accordance with more or less strict Commission

[7] *See* Comments of TDS Telecommunications Corporation, CC Docket 96-45, at 4-7 (Oct. 15, 2004).

guidelines.[8] This approach, which has previously been rejected by the Joint Board and the Commission in a number of contexts,[9] would be both impractical and illegal under the statute. TDS urges the Joint Board to consider carefully both the practical and legal challenges that the block grant proposals would face as well as the substantive impact these proposals would have on the provision of service in communities served by rural telephone companies.

On the practical side, the administrative costs of implementing a block grant program would be considerable. This approach would create new layers of administrative complexity both for USAC and for rural companies who operate in multiple states and study areas. Instead of one uniform regime, the Joint Board proposals would create fifty separate regimes whose allocation criteria, practices, and regulations could vary significantly from state to state. For USAC, which would continue to distribute support to carriers under the proposals,[10] this would necessitate the development of new systems and procedures for monitoring and

[8] *See Baum Proposal* at 3; *Gregg Proposal* at 12; *Nelson Proposal* at 13-15; *USERP Proposal* at 19. Although USF funds would continue to be disbursed to rural telephone companies by USAC, the amount of the disbursements would be dictated by state commissions, each of which would allocate a set block of funds among carriers serving rural areas.

[9] For example, the Joint Board recommended that support for non-rural carriers serving high-cost areas not be distributed directly to state commissions rather than to carriers because (1) federal universal service support historically had been distributed to carriers and there was no evidence in the 1996 Act or legislative history that Congress intended "such a fundamental shift to a state block grant distribution mechanism"; and (2) states may not have the administrative resources to distribute high-cost support to carriers in a manner that is consistent with federal rules and best ensures that rates are just, reasonable, and affordable throughout their states. *See* Second Recommended Decision, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 13 FCC Rcd 24,744, 24,767 (1998). The Commission refused to distribute interim "hold harmless" support for non-rural carriers transitioning to the forward-looking cost model on a state-by-state (as opposed to a carrier-by-carrier) basis. *See* Ninth Report and Order and Eighteenth Order on Reconsideration, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 14 FCC Rcd 20,432, 20,474 (1999), *reversed and remanded on other grounds*, *Qwest v. FCC*, 258 F.3d 1191 (2001). The Commission noted that "commenters addressing this issue are unanimously opposed to distributing federal high-cost support directly to state commissions." *Id.* at 20,479 n.236. The Joint Board and the Commission also rejected a "block grant" approach to the distribution of support under the Schools & Libraries program, citing bureaucratic concerns and a Senate Working Group report that expressed serious concern about block grants. The Senate Report observed that block grants would not be based on the individual needs and priorities of schools and libraries and would not ensure that all schools and libraries have access to telecommunications services. *See* Recommended Decision, *Federal-State Joint Board on Universal* Service, CC Docket No. 96-45, 12 FCC Rcd 87, 153-53, 164 (1996); Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776, 9065 (1997).

[10] *See, e.g., Baum Proposal* at 3; *USERP Proposal* at 19.

collecting information about state allocation determinations, for determining and distributing support to carriers (including those operating in multiple states), and for calculating projected contribution needs. USAC would also need to modify the audit process for rural telephone companies to take into account variations in state rules and requirements. The added complexity of these new procedures would inevitably increase USAC's administrative costs, threatening to undermine the well-established efficiency of the company.[11]

Rural telephone companies serving multiple states likewise would face elevated administrative costs. Even if state regulators followed allocation guidelines set by the Commission,[12] carriers serving multiple states would be obliged (1) to understand how each applicable state was applying the guidelines, (2) to develop data appropriate to those guidelines for each state and study area, and (3) to participate in potentially time-consuming administrative proceedings in each state in an attempt to obtain sufficient support to continue providing quality service in the communities they serve. Despite these efforts, rural carriers could not be certain that they ultimately would recover support sufficient to enable the ongoing provision of high-quality, evolving, reasonably priced services, including advanced broadband services. The uncertainty created by this diffuse, potentially chaotic, structure would create unavoidable incentives for rural carriers either to pull back on their investments in advanced telecommunications service or to increase the rates they charge for these unregulated services.

In addition to the practical challenges, the block-grant proposals would face significant legal challenges as well. Shifting authority over Fund allocations to state regulators

---

[11] *See USAC 2004 Annual Report* at 17 (showing cash paid for administrative costs of approximately one percent (1%) of contributions received). It would be extremely difficult for USAC to maintain this level of efficiency under the distribution mechanisms described in the Joint Board proposals.

[12] *See, e.g., Baum Proposal* at 3-4.

would constitute an unauthorized delegation of the Commission's authority to state regulators. The statute expressly dictates a mechanism under which national universal service policy is established *by the Commission*, with input from state regulators through the Joint Board process and consistent with specified principles.[13] The statute clearly vests final decision-making authority over the administration and allocation of the Fund with the Commission, not the states.[14] Accordingly, any decision to delegate the authority to determine support levels for eligible carriers to state regulators would be inconsistent with the statutory regime and subject to judicial review and reversal.[15]

Implementing a block grant program as contemplated by the proposals would also run afoul of the substantive principles the statute establishes for the federal universal service program. As noted above, replacing a uniform federal USF distribution mechanism with fifty state-specific regimes would make universal service support levels significantly less predictable.[16] In addition, allowing states to allocate USF support among all carriers serving rural areas (including those now treated as non-rural carriers), without significantly increasing the funds made available to the states, necessarily would reduce support for rural telephone companies well below levels sufficient to advance the statutory goals and promote the

[13] 47 U.S.C. § 254(a)(1)-(2).

[14] *Id.*; *see also* 47 U.S.C. § 254(d) ("Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms *established by the Commission* to preserve and advance universal service.") (emphasis added).

[15] *See, e.g.*, *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 568 (D.C. Cir. 2004). ("We therefore vacate, as an unlawful subdelegation of the Commission's § 251(d)(2) responsibilities, those portions of the Order that delegate to state commissions the authority to determine whether CLECs are impaired without access to network elements, and in particular we vacate the Commission's scheme for subdelegating mass market switching determinations.").

[16] *See* 47 U.S.C. § 254(b)(5).

availability of comparable services in rural areas.[17] The end result would be less access to advanced services in rural communities.[18]

B. Freezing Per-Line Support

Other aspects of the pending proposals raise additional concerns about their impact on the goals of the universal service program. For example, proposals to freeze per-line USF support in rural areas after the entry of a competitive eligible telecommunications carrier (CETC) pose a significant threat to the provision of quality service and the deployment of advanced telecommunications services in rural communities.[19] Because freezing per-line support would de-link the amount of USF funding that rural telephone companies recover from the costs they incur in providing service, implementing this proposal would drastically reduce rural investment incentives for carriers who serve areas in which one or more CETC has been designated.

Investing in the network infrastructure and improvements necessary to deploy quality broadband services in rural areas requires rural telephone companies to incur substantial additional costs. In rural areas, these additional investments would not be cost-justified in the absence of sufficient cost recovery from universal service and other sources. Indeed, this is why the universal service program exists – to allow carriers in rural and high-cost areas to provide reasonably-priced service where it would otherwise be economically irrational to do so. If, however, the support paid to rural rate-of-return carriers were de-linked from their costs, the universal service program would cease to serve this fundamental purpose and many rural carriers

[17] *See* 47 U.S.C. § 254(b)(1)-(3), (5).
[18] *See* 47 U.S.C. § 254(b)(2).
[19] *See Gregg Proposal* at 8-9.

would simply stop investing in new services. Such a result is at odds with the statutory requirement that the Fund provide sufficient support to enable access to quality advanced services in rural areas at reasonable prices.[20] It would also jeopardize the federal goal of widespread broadband deployment at the very time when the Commission claims to be focused on reducing regulatory burdens and increasing incentives to make such service available.

In addition, the rationale for freezing per-line support relies on the faulty assumption that competitors are capturing rural LECs' lines and thus driving up per-line support. In reality, the CETC is often a wireless carrier offering a service that most rural consumers see as *complementary* to, rather than a substitute for, wireline service. For example, according to the Yankee Group's 2005 Mobile User Survey, a significantly smaller percentage of rural dwellers (8%), as compared to urban dwellers (15%), are inclined to "cut the cord" and rely exclusively on wireless telephone service. Thus, there is little evidence that freezing per-line support on competitive entry would meaningfully slow the growth of the Fund.

C. Combining Rural Telephone Company Study Areas

The proposals that would combine study areas served by rural telephone companies with the same corporate parent at the state level for purposes of determining average per-line costs are also flawed.[21] Arbitrarily combining study areas — regardless of variations in size, population density, and number of lines — simply because the local exchange companies are owned by the same holding company would reintroduce implicit subsidies at the state level and produce inefficient support levels that are unrelated to costs and, in many cases, insufficient.

---

[20] *See* 47 U.S.C. § 254(b)(5).

[21] *See, e.g., Gregg Proposal* at 8.

Proposals to combine holding company study areas rely on false premises that ignore the realities of rural study areas. Fundamentally, the proposals assume that combining study areas within a state will accurately reflect economies of scale realized by the holding companies that operate in the combined areas. However, this assumption ignores the fact that holding companies' decisions to operate in multiple study areas in a state typically are driven by geographic separation and other basic business and operational reasons. The costs incurred to improve and maintain network infrastructure and provide service in one area are often completely unrelated to the costs incurred in other areas. This is especially true for companies that serve diverse and geographically distant study areas, including areas that are relatively large and low-cost and areas that are comparatively small and sparsely populated. The economic realities and varying costs of serving such different study areas are not changed simply because a single holding company owns the carriers that serve them.[22] Moreover, any economies of scale that do result from holding company operations are already effectively passed through to the USF under the existing embedded cost mechanism.

In addition, combining holding company study areas in a state would reintroduce, at the state level, the implicit subsidies that Congress sought to eliminate under the 1996 Act. That is, if a holding company's subsidiary rural telephone companies served both low-density, high-cost and relatively higher-density, lower-cost study areas in a state, and the support paid to those companies were based on costs averaged across the study areas, the higher-cost study areas would likely recover less support than they need. To keep rates reasonable in those higher-cost

[22] Although the proposal offered by Joint Board member Billy Jack Gregg supported combining rural study areas, it acknowledged that "because of their unique circumstances, Alaska and insular areas should be exempted from this requirement." *Gregg Proposal* at 9. In TDS's experience, these unique characteristics exist across rural telephone company study areas generally. Thus, the reasoning that justifies exempting Alaska and insular areas calls into question the entire rationale for combining rural study areas.

areas, subscribers in the more dense, lower-cost study areas likely would bear the burden of funding the un-recovered costs through higher rates for their own services. This is precisely the type of implicit subsidy that Congress rejected in enacting the current USF program. Accordingly, the Joint Board should decline to recommend any rural high-cost proposal that would require combining rural study areas.

III. REFORM CAN BE ACHIEVED IN A MORE COST-EFFICIENT AND EFFECTIVE MANNER AND CONSISTENT WITH THE GOALS AND PRIORITIES OF THE UNIVERSAL SERVICE PROGRAM

Despite our objections to some aspects of the Joint Board proposals, TDS shares the Joint Board's desire to see the Fund managed with prudence. Accordingly, we urge the Joint Board to remain open to other, more cost-efficient and effective measures that would strike the necessary balance between ensuring judicious management of the Fund while maintaining sufficient and predictable support levels consistent with statutory goals and other federal priorities. Some of these measures were included in some of the Joint Board proposals.

First, TDS strongly supports proposals to base USF support on each ETC's embedded costs.[23] This approach will ensure sufficient and predictable, but not excessive, support for all ETCs. The embedded cost mechanism accurately reflects the real-world costs of serving customers in rural areas with immense variations in geographic, economic, and regulatory conditions. Because it necessarily captures every factor affecting each carrier's cost, it is a highly effective means to ensure that rural telephone companies recover adequate support. The embedded cost mechanism also ensures that any network and corporate operating efficiencies are passed through to the Fund. Finally, the certainty provided by the embedded cost mechanism gives rural telephone companies the incentives they need to make the necessary

[23] *See, e.g., USERP Proposal* at 19-20.

investments in network infrastructure to deploy advanced telecommunications services to rural consumers.

Moreover, extending the logic underlying the embedded cost mechanism to all ETCs, including CETCs, will promote prudent management of the Fund. CETCs currently recover support based on the ILEC's costs, despite the lack of any evidence that this provides the appropriate level of support necessary to incent CETCs to provide quality, reasonably-priced services throughout rural areas. The goals of the universal service program will be advanced more effectively, without unnecessarily squandering its resources, if the support paid to CETCs reflects their actual costs to provide service in designated rural service areas.

Second, the Commission should take further steps to establish criteria for the designation of additional ETCs. This will better ensure that USF support is paid only to carriers that are truly committed to advancing the goals of universal service.[24] The Commission should require that these criteria be applied by all state regulators evaluating petitions for ETC designation. As noted above, consumers and carriers alike benefit from a uniform national policy that guides the administration of the Fund to ensure that its resources are distributed in a manner consistent with the underlying statutory goals and principles.

Third, the Commission should modify the USF contribution methodology to ensure that all consumers who benefit from and take advantage of a ubiquitous and reliable national telecommunications infrastructure contribute to the provision and maintenance of that network in high-cost areas. More effectively spreading USF contribution obligations across all users will advance federal policy goals (by ensuring that the Fund has adequate resources to

[24] *See* Petition for Reconsideration of Independent Telephone and Telecommunications Alliance, Western Telecommunications Alliance, and TDS Telecommunications Corp., CC Docket 96-45, at 12-16 (June 24, 2005).

support the goals set forth in Section 254(b)) while minimizing the associated financial burdens on individual businesses and consumers. This will ensure that the benefits and burdens of the universal service program remain in balance.

IV. THE JOINT BOARD AND COMMISSION SHOULD CONSIDER ESTABLISHING A SEPARATE PROGRAM WITHIN THE UNIVERSAL SERVICE FUND TO SUPPORT WIRELESS SERVICES IN RURAL AREAS

In addition to the short-term solution of basing CETC support levels on the CETC's actual costs, TDS encourages the Joint Board and Commission to explore the possibility of establishing a separate program within the USF to support wireless CETCs. In proposing such an alternative, the USERP plan recognizes that key differences between wireless and wireline ETCs – including different cost inputs and cost recovery options, different regulatory requirements, different rate structures, and different consumer usage models[25] – make the continued treatment of wireless and wireline ETCs under the same high-cost support mechanism inappropriate and, in many cases, wasteful and ineffective.[26] These differences justify a comprehensive reexamination of current policies and procedures for funding wireless CETCs, and we commend the USERP proponents for initiating that inquiry.

The first step of this inquiry should address whether the public interest is served by continuing to use universal service funding to support one or more additional communications

[25] A few specific examples of these differences include: (1) wireless carriers are not subject to rate-of-return regulation or equal access requirements; (2) wireless carriers typically employ nationwide, rather than study-area-specific, pricing plans; (3) due to the mobility of wireless phones, the revenue wireless carriers realize from network facilities built in rural areas may not be closely related to the population density of the area (*e.g.*, highway travelers passing through the area may provide relatively high revenues in areas populated with few subscribers); and (4) many households that subscribe to wireless services use multiple handsets/numbers, whereas most wireline households have only one access line/number.

[26] *USERP Proposal* at 25-26.

network(s) in high-cost areas.[27] To the extent that policymakers determine that funding an additional network(s) is good policy, the USERP proposal, with certain modifications, represents one possible approach to allocating and distributing those funds.

The USERP proposes a capped "portability fund" for wireless ETCs that would target support to wireless CETCs, for an initial period of five years, to improve wireless coverage in unserved areas.[28] Although the USERP speaks of a "fund" for wireless CETCs, the better approach to consider would be the establishment of a new program within the existing USF to fund wireless CETCs. This would leverage the existing resources and experience of the Fund. Within this framework, the Joint Board and Commission could consider creating a "Rural Wireless Program" that would, as the USERP proposes, target appropriate support levels – determined by the Commission rather than by state regulators, for reasons discussed above[29] – to wireless carriers for the express purpose of expanding wireless coverage in unserved areas. Eligibility criteria for receiving support from the Rural Wireless Program would need to be tailored to ensure that the wireless carriers recovering support under the program are directly advancing the specific goals of the program. Similarly, the method for determining funding amounts would need to take into account the cost and revenue characteristics unique to wireless

---

[27] *See* Second Report and Order and Further Notice of Proposed Rulemaking, *Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, FCC 01-304 (rel. Nov. 8, 2001) (*MAG Order*) (Separate Statement of Commissioner Kevin J. Martin) ("I have some concerns with the Commission's policy . . . of using universal service support as a means of creating 'competition' in high cost areas.").

[28] *USERP Proposal* at 26.

[29] Section 332(c)(3) of the Communications Act creates additional legal barriers to state regulators' determining USF funding, since those decisions could affect entry and rates, for wireless ETCs. *See* 47 U.S.C. § 332(c)(3).

carriers to ensure that support is more precisely targeted to better accomplish the goals of the program while avoiding wasteful expenditures from the USF.[30]

Although a number of complex issues would need to be addressed and resolved before establishing a USF program for wireless CETCs, TDS believes this proposal is worth considering. Indeed, regulatory expertise and resources would be better utilized to evaluate the viability of this type of program than to displace a well-established rural high-cost program that has been working well to accomplish the statutory goals.

---

[30] If eligibility criteria and funding amounts were appropriately tailored to the specific goals of the Rural Wireless Program, there presumably would be no need to cap the funds paid under the program. *See* Reply Comments of TDS Telecommunications Corp., CC Docket No. 96-45, at 9 (Dec. 14, 2004).

CONCLUSION

For the foregoing reasons, TDS urges the Joint Board and Commission to evaluate carefully the proposed plans for modifying the rural high-cost support mechanism in light of the overriding statutory principles and goals of the universal service program. Under this analysis, the Joint Board and Commission should reject proposals to delegate authority to allocate support amounts to state regulators. The Joint Board and Commission should also reject proposals to freeze per-line support amounts and/or to combine rural study areas solely for the purpose of reducing support levels paid out of the Fund. Instead, the Joint Board and Commission should, in accordance with the statutory mandate, preserve sufficient support levels to promote the widespread availability of quality, reasonably-priced, advanced telecommunications services in rural communities. The success of federal initiatives to promote universal broadband deployment depend on the continued availability of such support. At the same time, the Joint Board and Commission should undertake targeted reforms that will promote the prudent use of the Fund's resources while ensuring that all those who benefit from the availability of a ubiquitous and reliable nationwide telecommunications network contribute to its support.

Respectfully submitted,

s/ John Blevins

Gerard J. Waldron
Mary Newcomer Williams
John Blevins
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
Tel.: 202-662-6000
Fax: 202-662-6291
Counsel to TDS Telecommunications Corp.

DATED: September 30, 2005